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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CEZARY MARCIAN,
ANDRZEJ TURSKI, and LILI CHENG

Appeal 2008-004825
Application 10/609,104
Technology Center 2100

Decided:¹ July 17, 2009

Before JAMES D. THOMAS, LEE E. BARRETT, and STEPHEN C. SIU,
Administrative Patent Judges.

THOMAS, *Administrative Patent Judge.*

DECISION ON APPEAL

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1 through 18. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

A computer object access control graphical user interface allows a user to set computer locations where a computer object may be accessed and other users who may access the computer object. The computer object may be a computer file, a computer message, person contact information, etc. The access control user interface may operate, for example, to save a computer object to one or more computer locations, and also to specify sharing of the computer object with one or more other users so that they can access the object. Saving a computer object and setting the sharing of it are together referred to as controlling access to the object, the former referring to where the object may be accessed from and the latter referring to who may access the object. (Spec. 24, Abstract; Fig. 1).

Representative Claims

1. A computer object access control graphical user interface rendered on a computer display screen for controlling access to a computer object, comprising:
a name field indicating a name for the computer object;
and

one or more access control fields rendered together and indicating plural selectable computer spaces for the computer object, at least one of the computer spaces is a computer where one or more users is located during access to the computer object and at least one of the computer spaces corresponding to access to the computer object for the one or more computer users.

10. Software executing on a computer system for a computer object access control graphical user interface, comprising software to render a computer object access control graphical user interface on a computer display screen for controlling access to a computer object, the user interface including a name field indicating a name for the computer object and an access control field indicating plural selectable computer spaces for the computer object, at least one of the computer spaces is a location of a computer where one or more users is located during access to the computer object and at least one of the computer spaces corresponding to access to the computer object for the one or more computer users.

Prior Art and Examiner's Rejections

The Examiner relies on the following references as evidence of unpatentability:

Cohen-Levy	5,423,034	Jun. 6, 1995
Cohen	6,507,845 B1	Jan. 14, 2003
Nelson	2004/0122849 A1	Jun. 24, 2004 (filed Dec. 24, 2002)

Claims 10 through 18 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

All claims on appeal, claims 1 through 18, stand rejected under 35 U.S.C. § 103. As evidence of obviousness as to claims 1, 2, 5, 7 through 11, 14, and 16 through 18, the Examiner relies upon Cohen-Levy in view of Nelson. To this combination of references, the Examiner adds Cohen in a second stated rejection as to claims 3, 4, 6, 12, 13, and 15.

Claim Groupings

Based on Appellants' arguments presented in the principal Brief on appeal, as to the rejection under 35 U.S.C. § 101, we consider independent claim 10 as representative of the claims 10 through 18. In a corresponding manner with respect to both rejections under 35 U.S.C. § 103, we consider the separate arguments made with respect to independent claims 1 and 10 on appeal as representative of all claims on appeal. As to the second stated rejection under 35 U.S.C. § 103, Appellants rely for patentability upon the arguments presented with respect to the subject matter of argued independent claims 1 and 10. No dependent claim on appeal is argued before us.

ISSUES

1. Have Appellants shown that the Examiner erred in finding that the subject matter of representative independent claim 10 on appeal is directed to non-statutory subject matter?
2. Have Appellants shown that the Examiner erred in finding that the combination of teachings of Cohen-Levy in view of Nelson teaches the

feature of one or more access control fields indicating plural selectable computer spaces for the computer object, as recited in and commonly argued between independent claims 1 and 10 on appeal?

FINDINGS OF FACT

1. Figure 1 of Cohen-Levy shows various computer modules in block form to include a user save module 12, a document locator module 20, and a user open module 13, all of which control accessibility to respective local memory device 18 and network memory device 19.

The save and open modules are characterized in this reference as having open and save cards as indicated in the following discussion:

Further, both the open card and save card allow the user to access the Document Location Box [Fig. 4] that gives a graphical representation of the real world hierarchical data structure and allows users to manipulate the structure in a comprehensive but simple fashion.

(Col. 7, ll. 29-34).

The save card in Figure 2 includes various user entries including a user name and a document location 32 illustrating locations of certain documents within Antone's personal computer. This graphical user interface 32 may be actuated by the user to refer to the document location box 70 in Figure 4 which illustrates in item 701 a location 708 where Antone's personal computer is represented by an icon. Figure 4 also depicts in item 702 a filing cabinet 702, a file drawer 703 of this file cabinet 702, and further, separate file folders 704 within the selected file drawer 703. Actuation of the options box 76 at the bottom of Figure 4 brings up the showing in Figure 5.

These references to Cohen-Levy are briefly discussed at column 13, lines 53 through 57, which are reproduced here:

When saving a file from the save card [Fig. 2], or when viewing levels in the real world hierarchical file structure from the Document Location Box [Fig. 4], the user has the option, using the same interface, to change or set access rights to files or levels on the central memory devices [Fig. 5].

Column 18, lines 33 through 38, teaches:

Referring now to FIG. 5, there is illustrated an example of the network access window 80. In this example, it is assumed that the user has selected the filing cabinet 702 from the Document Location Box 70 of FIG. 4, and then accessed the network access window 80 via the options button 76.

Figure 5 shows a network access window 80 comprising a graphical user interface that identifies a computer object by location in a network cabinet which also is characterized as a name of the location. Item 82 illustrates a list of users that may be recognized in the network such as the highlighted region 83 which is depicted in item 84 as having given the user identified in region 83 user access privileges of a certain type. The listing in element 78 and 82 of Figure 5 comprises various computer spaces associated with users directly and represents a plurality of access control fields.

2. The end of Nelson's Abstract indicates the thrust of his invention to permit the user to have access only to documents within the same domain as the user or in a public domain. Figure 1 shows a plurality of clients 12 connected to a library server 14. In association with the discussion at pages 1 and 2 of this publication, the use of URLs provides identification not only of the clients and of clients' computers 12, but also of the library server 14 within the context of Internet resources.

It is stated in paragraph [0023], in part, “in a content management system that is shared by 20 customers, each having their own forms and documents, 20 domains would be defined, one for each customer.” Thus, one domain is equivalent to one customer/location/computer. The discussion in paragraph [0033] teaches that domains relate to user IDs, user groups, privilege sets, access control lists, resource managers, and collections of items. For each domain identified in Figure 3A, there are respective access control location set codes 46 and privilege set codes 48. Significantly, Figure 3B illustrates that data items 52 also correlate with respective companies X and Y and in turn with respective individuals Jones and Williams. Thus, different companies would comprise different locations and different computers as would the named individuals of Jones and Williams in column 56 of Figure 3B implicitly indicating different computers and different locations. As noted by the Examiner, accessibility within multiple organizations is discussed in paragraph [0034].

PRINCIPLES OF LAW

Statutory subject matter comprises a machine, a manufacture, a process, or a composition of matter as permitted within 35 U.S.C. § 101. Moreover, our reviewing court has stated that “[t]he four categories [of § 101] together describe the exclusive reach of patentable subject matter. If the claim covers material not found in any of the four statutory categories, that claims falls outside the plainly expressed scope of § 101 even if the subject matter is otherwise new and useful.” *In re Nuijten*, 500 F.3d 1346, 1354 (Fed. Cir. 2007), *reh’g en banc denied*, 515 F.3d 1361 (Fed. Cir. 2008), *cert. denied*, ___ U.S. ___, 127 S. Ct. 70 (2008). *Accord In re*

Ferguson, 2009 WL 565074, (Fed Cir.2009). This latter case held that claims directed to a “paradigm” are non-statutory under 35 U.S.C. § 101 as representing an abstract idea.

ANALYSIS

I. Section 101 Rejection of Claims 10-18

The preamble of independent claim 10 recites “software executing on a computer system for a computer object access control graphical user interface, comprising.” The body of the claim goes on to recite initially “software” to perform the functions set forth rendering a computer object in a graphical user interface format. We therefore agree with the Examiner’s characterization that this claim relates to software per se to the extent initially characterized at page 3 of the Answer and responsively argued at page 9 as well. Appellants’ arguments to the contrary at pages 3 through 5 of the principal Brief are not persuasive of patentability.

Consistent with the above-noted case law, it is clear that the claimed software recited in the body of claim 10 is not fairly characterized as a machine, a manufacture, a process, or a composition of matter within 35 U.S.C. § 101, which are the only categories that the statutory provision permits for statutory subject matter. The case law cited by Appellants at pages 3 through 5 of the principal Brief have been overshadowed by the more recent case law noted earlier in this Opinion. As the Examiner has observed, there is no positive statement in claim 10 that the software is actually executed in a computer system in the body of the claim, notwithstanding the recitation of software executing on a computer system in the preamble. Indeed, there is no positive statement there that the claimed

computer system is a hardware-based computer system. The arguments presented by Appellants in the Reply Brief essentially merely repeat the arguments already made in the principal Brief on appeal and do not contest the Examiner's responsive arguments in the Answer.

The rejection of claims 10-18 under 35 U.S.C. § 101 is affirmed.

II. Rejections under 35 U.S.C. § 103

At the outset, we note that Appellants have not challenged the combinability of Cohen-Levy and Nelson and, separately, the combinability of Cohen-Levy, Nelson, and Cohen, within 35 U.S.C. § 103 in the principal Brief on appeal. Therefore, no governing case law is cited in this Opinion to that effect. The remaining determination to be made is whether the combined teachings and/or suggestions among Cohen-Levy and Nelson would have rendered obvious to one of ordinary skill in the art the subject matter that is claimed and argued before us.

We note as well that the subject matter of independent claims 1 and 10 on appeal are only urged to be patentable based upon the common feature among them of an access control field indicating plural selectable computer spaces for the computer objects.

We do not agree with Appellants' urging at page 6 of the principal Brief that Cohen-Levy is silent regarding this feature. As the Examiner has noted in the statement of the rejection and as illustrated plainly in Figure 5 of this reference, there is an access control field rendered in the graphical user interface displayed in that figure indicating plural selectable computer spaces for the computer objects. As we noted with respect to our material selected for Finding of Fact 1, Cohen-Levy shows emphatically in Figure 5

such a correlation with respect to users. The Examiner merely relies upon Nelson for what the Examiner considers is not (Ans. 4) explicitly taught in Cohen-Levy, concerning the feature of a computer space relating to a computer and where it is located.

It appears to us that the artisan would understand from the showing in Figure 4 of Cohen-Levy that Figure 5 merely shows the filing cabinet 702 in detail in Figure 5 from the showing of Item 702 in Figure 4. By inference, within the teachings of Cohen-Levy, for each identified user in the list of users box 82 in Figure 5, there is correlated a computer which is also indirectly indicated to be located with the user. The teachings within Cohen-Levy also actually permit, within the showing of Figure 4, the selection of Antone's personal computer in item 701, that in turn would be depicted in Figure 5 to actually indicate a personal computer, Antone's computer, as well as where this data object is located, that is, with Antone.

What is very telling about the actual recitation among independent claims 1 and 10 on appeal is that the recited at least one of the computer spaces being a computer having a certain location and the separately recited at least one computer space corresponding to users, may be the same computer space since they are not specifically recited in the claim, even as disclosed, to be separate and different computer spaces within the selectable computer spaces associated with an access control field. This interpretation broadens even more the teaching value of Cohen-Levy alone to an artisan.

Notwithstanding these considerations, Nelson, in his own indirect way, confirms the Examiner's teachings that users and computer locations may be symbolically represented implicitly in accordance with the teachings we have set forth in Finding of Fact 2 earlier in this Opinion. The Examiner

does not cite Nelson for the basic teaching indicating plural selectable computer spaces which are, in the Examiner's view, evidenced by Cohen-Levy.

The Reply Brief generally improperly repeats the same arguments presented in the principal Brief on appeal. Even if we were to agree with Appellants' characterization at page 7 of the Reply Brief that the subject matter of independent claim 1 allows for controlling access to a computer object down to a single user in a single computer, as actually worded, the subject matter of this claim is met by the teachings we have already outlined with respect to Cohen-Levy alone within Finding of Fact 1, in addition to the confirming teachings we outlined in Finding of Fact 2 with respect to Nelson. The artisan would understand within both references, a single user means the user's computer at the location of the user.

CONCLUSIONS OF LAW

1. Appellants have not shown that the Examiner erred in finding that the subject matter of representative independent claim 10 on appeal is directed to non-statutory subject matter.

2. Appellants have also not shown that the Examiner erred in finding that the combination of teachings of Cohen-Levy and Nelson would have rendered obvious the subject matter of independent claims 1 and 10 on appeal and their particularly argued feature of an access control field indicating plural selectable computer spaces for the computer object.

DECISION

The Examiner's rejection of claims 10 through 18 under 35 U.S.C. § 101 as being directed to non-statutory subject matter is affirmed. Likewise, the Examiner's rejections of claims 1 through 18, all claims on appeal, under 35 U.S.C. § 103 are affirmed. All claims are unpatentable.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

msc

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